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DAN F. ARNETT
CHIEF OF STAFF

April 5, 2006

VIA HAND DELIVERY

Mr. Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Dr., Suite 100
Columbia, SC 29210

RECEIVED

APR 05 2006

PSC SC
DOCKETING DEPT.

4/6/06
ted

Re: Application of TQC Communications Corporation for a Certificate of Public Convenience and Necessity to Provide Interexchange Telecommunications Services and for Alternative Regulation
Docket No. 2006-38-C

Dear Mr. Terreni:

Enclosed for filing please find the original and sixteen (16) copies of the Settlement Agreement in the above referenced matter. Please date stamp the extra copy enclosed and return it to me in the envelope provided.

Thank you very much for your assistance. Please let me know if you have any questions.

Sincerely,

Jeffrey M. Nelson

JMN/pjm

cc: John J. Pringle, Jr., Esquire

RETURN DATE: N/A
SERVICE: OK ted

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2006-38-C

RECEIVED
TQM MPT-5 PM 4:07
COMMUNICATIONS
COMMISSION

In Re:

Application of TQC Communications)
Corp. for a Certificate of Public)
Convenience and Necessity to Authorize)
It to Provide Interexchange)
Telecommunications Services and for)
Alternative Regulation First Approved)
In Docket No. 95-661 as Modified in)
Docket No. 2000-407-C)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Settlement Agreement") is made by and among the Office of Regulatory Staff ("ORS") and TQC Communications Corp., ("TQC" or "the Company") (collectively referred to as the "Parties" or sometimes individually as "Party");

WHEREAS, on January 25, 2006, TQC filed its Application requesting a Certificate of Public Convenience and Necessity to operate as a reseller of telecommunications services within the State of South Carolina and for Modified Alternative Regulations for its business service offerings and all calling card services offerings within the State pursuant to Orders No.95-1734 and 96-55 in Docket No. 95-661-C and as modified by Order No. 2001-997 in Docket No. 2000-407-C;

WHEREAS, on February 7, 2006, the Public Service Commission of South Carolina ("the Commission") appointed Mr. David Butler as the Hearing Examiner in this matter;

WHEREAS, on March 16, 2006, TQC pre-filed the direct testimony of Buddy Pack t with the Commission;

WHEREAS, the Commission scheduled this matter to be heard before Hearing Examiner David Butler on April 10, 2006 at 10:30 am;

WHEREAS, the purpose of this proceeding is to review the application filed by TQC and its request for a Certificate of Public Convenience and Necessity to provide resold intrastate interexchange communications services and for alternative regulation for its business service offerings in South Carolina;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of the Company to provide such services;

WHEREAS, ORS has reviewed the Application and the financial data provided by the Company and its parent, and ORS has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by TQC and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by TQC;

WHEREAS, as a result of its investigations, ORS has determined a) TQC intends to offer telecommunications services such as presubscribed and casual calling service, toll-free inbound service, travel card service, and operator-assisted services; b) the officers of TQC possess sufficient technical and managerial abilities to adequately provide the services applied for; c) based upon the information provided and the analysis performed, TQC appears to have access to sufficient financial resources necessary to provide the services proposed in its application; d) certain revisions should be made to TQC's proposed tariffs in order to comply with Commission statutes and regulations; e) the services provided by TQC will meet the service standards required by the Commission; f) the provision of services by the Company will not

adversely impact the availability of affordable telecommunications services; g) to the extent it is required to do so by the Commission, TQC will participate in the support of universally available telephone service at affordable rates; and h) the provision of interexchange services by TQC will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

- 1) The Parties agree that TQC's Application and exhibits to the Application are incorporated into this Settlement Agreement and made a part hereof;
- 2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony and exhibit of TQC Witness Pack without cross-examination by ORS;
- 3) TQC agrees to submit into the record before the Commission revised tariffs in accordance with ORS recommendations as set forth in Exhibit 1 to this Settlement Agreement and incorporated herein;
- 4) TQC agrees to provide, and has already submitted, financial data which was provided as Exhibit 4 to its Application and which is incorporated by reference;
- 5) TQC agrees to comply with South Carolina Code Section § 58-9-300 entitled "Abandonment of Service." Additionally, TQC agrees to adhere to the Federal Communication Commission rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable

document. Prior to abandonment of service, TQC shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

- 6) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide access services and resold interexchange telecommunications services within the state of South Carolina;
- 7) ORS does not oppose the Company's request for waivers of 26 S.C. Code Ann. Regs. 103-610, 26 S.C. Code Ann. Regs. 103-611, 26 S.C. Code Ann. Regs. 103-612.2.3, and 26 S.C. Code Ann. Regs. 103-631;
- 8) ORS does not oppose the Company's request that all of its telecommunications offerings be regulated as described in its application pursuant to the procedures set out in Commission Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Commission Order No. 2001-997 in Docket No. 2000-407-C;
- 9) TQC agrees to resell the services of only those interexchange carriers authorized to do business in South Carolina by the Commission. TQC agrees to notify ORS and the Commission, in writing, if the Company changes underlying carriers;
- 10) TQC agrees that the Company will allow an end-user of resold services to access an alternative interexchange carrier or operator service provider if the end-user expresses such a desire;
- 11) The Company agrees to file necessary financial information with the Commission and ORS for universal service fund reporting, annual reporting and/or gross receipts reporting;

- 12) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B) (added by Act 175). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

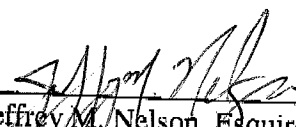
- 13) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and to take no action inconsistent with its adoption by the Commission. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.
- 14) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement

Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation.

- 15) This Settlement Agreement shall be interpreted according to South Carolina law.
- 16) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

WE AGREE:

Representing the Office of Regulatory Staff

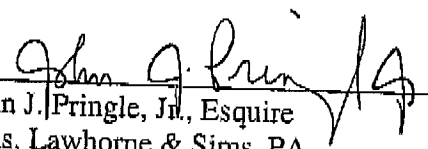


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4/6/06
Date

WE AGREE:

Representing TQC Communications, Inc.



John J. Pringle, Jr., Esquire
Ellis, Lawhorne & Sims, PA
1501 Main Street, 5th Floor
Post Office Box 2285
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Phone: (803) 254-4190
Fax: (803) 779-4749
Email: jpringle@ellislawhorne.com

4/05/06
Date

EXHIBIT 1

TQC Communications Corp. Docket No. 2006-38-C Tariff Review Page 1 (Rogers)

Exhibit 5 –Proposed Tariff (IXC)

SC PSC Tariff No. 1

Section 2 – Rules And Regulations

2.7 – Taxes and Fees

2.7.1 – Original Page 15 – *“For all calls, state and local taxes (i.e., gross receipts tax, sales tax, municipal utilities tax) are listed as separate line items on the Customer’s bill and are not included in the quoted rates and charges set forth in this tariff.”*

Suggest deleting the term “gross receipts tax.” Assessments levied against utility companies for funding regulation, such as gross receipts, are not an allowable line item pass-through to consumers in South Carolina.

2.7.2 – Original Page 16 – *“To the extent that a municipality, other political subdivision or local agency of government, or Commission imposes upon and collects from the Company a gross receipts tax, occupation tax, license tax, permit fee, franchise fee, or regulatory fee, such as taxes and fees shall, insofar as practicable and allowed by law, be billed pro rata to Customers receiving service from the Company within the territorial limits of such municipality, other political subdivision or local agency of government.”* **Suggest deleting the term “gross receipts tax.” Assessments levied against utility companies for funding regulation, such as gross receipts, are not an allowable line item pass-through to consumers in South Carolina.**

2.10 – Payment for Service

2.10.1 – Original Page 19 – *“Service is provided and billed on a monthly basis. Bills are due and payable upon receipt. A late fee of 1.5% per month (or the maximum amount allowed by law, whichever is lower) applies to any unpaid and past due balance. The late fee begins to accrue on the 30th day after the billing date. All late charge provisions will be implemented in compliance with the Commission rules and regulations pertaining to the application of late fees.”* **Suggest revising the language in the fourth sentence of this subsection to state: “The late fee may be added to any unpaid balance brought forward from the previous billing date to cover the cost of collection and carrying accounts in arrears.”**

2.11 – Deposits – Original Page 20 – *“The Company does not require deposits for South Carolina services other than prepaid calling cards.”* **Suggest that the Company modify the language in this subsection. This subsection appears to indicate that the Company will require deposits on prepaid calling cards. This practice would seem highly inappropriate in the fact that the monies for prepaid calling cards are collected in advance. There would be no justification for requiring a deposit under these circumstances.**

TQC Communications Corp. Docket No. 2006-38-C Tariff Review Page 2 (Rogers)

Exhibit 5 –Proposed Tariff (IXC)
SC PSC Tariff No. 1

2.21 – Tests, Pilots, Promotional Campaigns and Contests – Original Page 29 – “The Company may conduct special tests, pilot programs, waivers and promotions to demonstrate the ease of use, quality of service and to promote the sale of its services. Such tests, pilot programs, waivers and promotions will be implemented after notification to and approval of the SC PSC.” **Suggest revising the language in the last sentence of this subsection to state: “Such tests, pilot programs, waivers and promotions will be implemented after notification to the SC PSC and ORS in form of a transmittal letter (not within the body of the tariff).”**

Section 3 – Description Of Services And Rates

3.9 – Operator Service Inmate Pay Phones – Original Page 37 – “TQC provides collect- only “0+”/”0-“Inmate Telecommunications Services to inmate-end users of TQC pay telephones in correctional institutions. Such services are available from TQC pay telephones located in local, county, state and federal correctional institutions and through resold transmission facilities procured by TQC from local exchange carriers and interexchange carriers. Payment of charges applicable to the provision of such services is the responsibility of the billed party.” **Suggest that the Company clarify the type of dialing arrangement for its Operator Service Inmate Payphones. Per Commission Order No. 91-122 in Docket No. 90-305-C, the only acceptable means of call placement was 0+ Automated Collect using store and forward technology. The processing of such call on a 0- basis does not appear to conform to the aforementioned Order. Additionally, the Company should clarify if they intend to carry all three types of traffic authorized by an intrastate certificate (i.e., Local, IntraLATA and InterLATA). Accordingly, rate tables should be published with the pricing for the types of traffic. Local traffic under Inmate Service is not intended to be offered on a measured basis but only on a flat rated basis per call.**

3.10 – Operator Service Inmate Pay Phones and Call Processing Systems – Original Page 38 – “TQC provides “0+”/”0-“ Inmate Telecommunications Services to inmate-end users of TQC pay telephones and call processing systems in correctional institutions. Such services are available from TQC pay telephones and all processing systems located in local, county, state and federal correctional institutions and through resold transmission facilities procured by TQC from local exchange carriers and interexchange carriers. Payment of charges applicable to the provision of such services is the responsibility of the billed party. exchange carriers and interexchange carriers. Payment of charges applicable to the provision of such services is the responsibility of the billed party.” **Suggest that the Company address the same issues brought forth in the preceding subsection. Additionally, in this subsection, certain language is highlighted in the third sentence which may be a typographical error.**

Exhibit 5 –Proposed Tariff (IXC)
SC PSC Tariff No. 1

3.11 and 3.12 – Operator Service Inmate Call Processing Systems/ Operator Service Standard and Inmate – Original Page 39 – Suggest that the Company address the same issues outlined in subsections 3.9 and 3.10. Additionally, request that the Company provide supplemental language in the tariff with an explanation of the differences between subsections 3.9, 3.10, 3.11 and 3.12.

3.15 – Direct Dial Intrastate I Service – Original Page 42

Direct Dial Rates

	<u>Residential (Intrastate/IntraLATA</u>		<u>Direct Dial</u>
<u>CLEC</u>	<u>.0500</u>	<u>Regional Bell</u>	<u>.0490</u>
<u>CLEC</u>	<u>.0490</u>		<u>.0470</u>
<u>CLEC</u>	<u>.0475</u>		<u>.0450</u>
	<u>Business</u>		
<u>CLEC</u>	<u>.0490</u>	<u>Regional Bell</u>	<u>.0450</u>
<u>CLEC</u>	<u>.0470</u>		<u>.0420</u>
<u>CLEC</u>	<u>.0450</u>		<u>.0400</u>
<u>CLEC</u>	<u>.0430</u>		<u>.0380</u>

Suggest that the Company clarify the application of the Direct Dial Rates in subsection 3.15 outlined in the above table. Toll rates must be uniform statewide. If this is not the case, then the Company should revise the schedule to avoid deaveraging of rates.

TQC Communications Corp. Docket No. 2006-38-C Tariff Review Page 4 (Rogers)

Exhibit 5 –Proposed Tariff (IXC)
SC PSC Tariff No. 1

3.15 – Direct Dial Intrastate I Service (Cont’d) – Original Page 43

Toll Free #'s same rate - \$3.00 MRC

Billing in six (6) second increments.

Monthly access fee Residential - \$3.90

	Dedicated		
CLEC	.0325	Regional Bell	.028
CLEC	.0310		.027
CLEC	.0300		.026
CLEC	.0290		.025

“Special Resort Long Distance Direct Dial Rates for Renters:”

“.0590 + 25¢ connection charge per call.”

“One-time setup charge \$3.90, regardless of length of stay.”

Suggest that the Company provide an explanation of the above listed rates. The same concerns pertaining to deaveraging exist alluded to in the table on Page 42. Additionally, suggest that the Company clarify the type of service these rates are applicable. The term “Dedicated” is used, which typically indicates business rates; however, “Monthly access fee Residential” is found directly above the rate table. Furthermore, the term “Toll Free #'s is also found within this subsection which possibly indicates that this may be an 800 type dedicated service offering. The text and rates below the rate table appear to have some relationship to the rate table; however, suggest Company clarify how these rates apply (wholesale, retail, etc.)

TQC Communications Corp. Docket No. 2006-38-C Tariff Review Page 5 (Rogers)

Exhibit 5 –Proposed Tariff (IXC)

SC PSC Tariff No. 1

Section 4 – Maximum Rates – Original Page 44

4.1 – Operator Service Pay Telephones; 4.1.1 – Fixed Service Charges; 4.2 – Operator Services Hotel – Original Page 44 - Suggest that the Company consider removing the rates and charges (maximum) in these subsections due to the fact that all appear to fall under the umbrella of hospitality and/or transient Operator Service Orders issued by the Commission (Order No. 88-612 and Order No. 93-534) The allowable maximum rates fluctuate with the pricing of the Operator Service rates of AT&T Communications, LLC; this also allows for Current Pricing adjustments. Furthermore, the Company should provide a rate category for the placement of ” Customer Dialed Calling Card Station” calls independent of all other OSP traffic to comply with Commission Order No. 2001-997.

4.4 – Operator Service Inmate Pay Phones; 4.4.1 – Fixed Service Charges – Original Page 46 – Suggest that the Company remove Maximum rates from the tariff. The allowable maximum rates are governed by Order No. 91-122 which was addressed in the suggestions found in Section 3; specifically subsections 3.9, 3.91, 3.10, 3.11 and 3.12.

4.5 – Business – Original Page 47 – “TQC provides 1+ access to end users from Feature Group D circuits. These services are provided through resold services from underlying carriers. These services will be billed directly by the Company to the end user.”

Business and Residential Rates

<u>Per Minute</u>	<u>Volume Discount</u>
<u>\$0.1900</u>	<u>None</u>

Suggest that the Company review the title of subsection 4.5, “Business”, and ensure that the title is appropriate. The Company has requested in its application Alternative Regulatory treatment which eliminates any Maximum Rates (caps) for such services. It would appear that possibly “Residential Rates” would be appropriate for the Per Minute and Volume Discount shown this subsection.

4.6 – Travel Service & Debit Card Services – Original Page 47, Original Page 48 and Original Page 49 – Suggest that the Company remove all Maximum rates for Travel & Debit Card Services consistent with Alternative Regulation.

TQC Communications Corp. Docket No. 2006-38-C Tariff Review Page 6 (Rogers)

Exhibit 5 –Proposed Tariff (IXC)
SC PSC Tariff No. 1

Section 4 – Maximum Rates (contd) – Original Page 49 and Original Page 50

4.7 – Direct Dial Intrastate I Service – Original Page 49 and Original Page 50 – **Suggest that the Company remove Maximum rates related to Business Services consistent with Alternative Regulation. Additionally, the same concerns expressed in subsection 3.15 should be addressed (Rate deaveraging and clarification of the schedules).**

Section 5 – Promotions

5.2 – Promotions – General - Original Page 51 – “From time to time, the Company may provide promotional offerings to introduce a current or potential Subscriber to a service not being used by the subscriber. These offerings may be limited to certain dates, times or locations and may waive or reduce recurring or non-recurring charges.” **Suggest inclusion of language in this subsection to state: “Prior to implementation, all promotional offerings will be filed in the form of a transmittal letter (not within the body of the tariff) with the Commission and ORS.”**

****Suggest that the Company include language in the tariff pertaining to unresolved customer complaints and/or disputes. An example of the suggested language is stated in the following: “In the event of an unresolved dispute or complaint, the Customer may contact the Consumer Services Department of the ORS for assistance. The contact information for such is listed below:**

**Office of Regulatory Staff
State of South Carolina
Consumer Services Department
P.O. Box 11263
Columbia, SC 29211
Telephone Number -803-737-5230
Toll Free Number – 1-800-922-1531
Fax Number – 803-737-4750**

Additionally, suggest that the Company include in the tariff a regulatory contact person with the address and toll free telephone number. This information should be kept current at all times. **